



# Public Knowledge

May 24, 2011

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th St. SW  
Washington, DC 20554

Re: WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109

Dear Ms. Dortch:

Today, Harold Feld and John Bergmayer of Public Knowledge (PK) met with Zach Katz, Legal Advisor to Chairman Genachowski, Sharon Gillett, Chief of the Wireline Competition Bureau (WCB), Rebekah Goodheart of the WCB, and Michael Steffen of the Office of General Counsel.

The purpose of the meeting was to discuss Universal Service issues. PK believes that the Commission should not abandon the goal of true universality, and that policies ought to be aimed at 100% broadband penetration. It offered a few proposals in this regard.

In particular, PK discussed its proposal that fund recipients be required to provide interconnection points to allow unserved communities to provision their own broadband service. It may be, for instance, that some communities find they are in areas that are not covered by USF recipients, or that some parts of covered areas, under the Commission's rules, do not receive adequate service. Under this self-provisioning model, communities that would be otherwise unserved have the option of deploying a network suitable to local conditions, gaining connectivity from a nearby USF recipient. PK also argued that one-time grants for equipment purchased might help unserved areas get connected. Empowering areas that are unserved to serve themselves not only helps the Commission move toward universality, but it does so at low cost because local actors best know the kinds of service that work best given local geographic and population characteristics.

PK also argued that metrics other than speed should be measured to ensure that rural service is comparable to service in urban areas, as the statute provides. *See* 47 U.S.C. § 254(b)(3). For instance, some providers (such as many satellite broadband operators) only offer service with restrictive network management practices and usage caps. Services with such limitations are incompatible with the goals of universality and comparable service.

Finally, PK argued that the Commission has the authority to direct universal service funds to non-ETCs. While it continues to believe that the best legal framework to support USF for broadband is Title II, the theories articulated by the Commission in its NPRM, *see* Connect America Fund, WC Docket No. 10-90, *Notice of Proposed Rulemaking*, FCC 11-13 (rel. Feb. 9, 2011) at ¶¶ 55-74, can provide adequate authority to direct funds to providers of information services. While the Commission would be best served by relying on multiple theories of authority, the strongest appears to be based on direct section 706 authority, coupled with forbearance from the section 214 provision that fund recipients follow ETC guidelines.

Respectfully submitted,

/s John Bergmayer  
Staff Attorney  
Public Knowledge

cc:  
Zach Katz  
Sharon Gillett  
Rebekah Goodheart  
Michael Steffen